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REMARKS

Claims 1-8 are pending, claims 9-17 were cancelled and new claims 18-21 added.

Claims 1-4, 6, 8 and 10 were rejected as being anticipated by Rogers (U.S. 2,085,829). Claim 1 has been amended to include the limitation of joining a first segment and a second segment to each other, where the first segment and the second segment comprise one of a top section and a bottom section of the axle beam. Rogers discloses a box girder having a joint on a side wall. Rogers does not disclose a joint on a top or bottom portion of an axle beam, or an axle beam at all and therefore cannot anticipate this limitation in claim 1. Accordingly, Applicant requests withdrawal of the rejection to claims 1-4, 6 and 8.

Claim 7 and 9 were rejected as being obvious over Rogers modified in view of Nees et al. (US. 6,722,037), and alternatively over Applicant's admitted prior art (AAPA) in view of Rogers. Claim 7 includes the limitation of a third segment and a forth segment that have a thickness less than a thickness of the first and second segments. The limitations previously presented in claim 9 have been included in claim 1. Examiner admits that Rogers does not disclose or suggest a joint on one of a bottom or top side of a girder beam. Nees et al. discloses a round beam for a car door that is formed with a joint in a top portion and a bottom portion.

The rejection is improper as there is no motivation or suggestion to modify Rogers as proposed to include a joint on a top or bottom surface. Instead, Rogers teaches away from such a modification. The joint in Rogers is disposed in a relatively thin side of the beam so as not to impair a strength of the beam. Rogers states that the "meeting edges of the thin side members 6 would preferably appear at the neutral axis of the beam where they may be welded together without impairing the strength of the beam". (Col 2, lines 45-51). Placement of the joint at a top or bottom portion of the Rogers girder beam would weaken the beam, against the teachings and stated object of Rogers. There can be no suggestion or motivation if a proposed modification would destroy an intended operation of a reference. In this case, modifying Rogers to include a joint on a top or bottom surface would weaken the beam, against the teachings of Rogers.

Further, Rogers and Nees et al. are non-analogous art and therefore the proposed modification is improper. The test for analogous art is whether the art is within the field of the inventor's endeavor, if not, is the art reasonably pertinent to the problem in which the inventor was involved. A reference is reasonably pertinent if it logically would have commended itself

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to an inventor's attention considering the problem. In this case neither Rogers nor Nees et al. is relevant to an axle for a motor vehicle. Rogers is concerned with a cheap box girder and Nees et al. is concerned with a beam for absorbing impact forces in a vehicle door. Further, an inventor would not logically look to a cheap method of manufacturing a box girder intended for a statically loaded building application when attempting to improve on an axle beam under dynamic loads for a motor vehicle. Further, Nees et al. is directed toward improving impact performance for a vehicle door. A device for improving crash performance as is disclosed in Nees et al. would not be brought to an inventor's attention seeking to improve a vehicle axle.

Additionally, the proposed modification of AAPA and Rogers can only be the result of impermissible hindsight reasoning using Applicant's disclosure as a guide. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. It is impermissible to engage in a hindsight reconstruction of the claimed invention, using Applicant's invention as a roadmap to select elements from differing references to fill gaps. Neither Rogers nor the AAPA provide suggestion or motivation. In fact, Rogers teaches away from the claimed invention as providing a weld on a top or bottom side of the Rogers's box girder would weaken it, against the teachings of Rogers. (Rogers Col 2, lines 45-51).

Claims 1-6, 8, and 10 were rejected as being obvious over applicants admitted prior art (AAPA) and Rogers. Claim 1 now includes the limitation of joining a first segment and a second segment to each other, where the first segment and the second segment comprise one of a top section and a bottom section of the axle beam. This limitation was previously presented in claim 9. The combination of AAPA and Rogers does not disclose or suggest this limitation. In fact, Rogers teaches away from such a combination. As discussed above, the joint in Rogers is disposed in a relatively thin side of the beam so as not to impair strength of the beam. Rogers states that the "meeting edges of the thin side members 6 would preferably appear at the neutral axis of the beam where they may be welded together without impairing the strength of the beam". (Col 2, lines 45-51). Accordingly, claim 1 includes limitations that are not suggested or disclosed by the proposed modification. Applicant requests withdrawal of this rejection.

Applicant has included new claim 18 that requires a first section and a second section be joined to form one of a top section or a bottom section of an axle beam for a vehicle. Claim 19

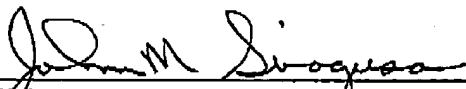
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requires a third segment and a fourth segment each having a thickness less than a thickness of the first segment and the second segment. Claim 20 recites that the end assemblies are king pin bosses. None of these claims are disclosed or suggested by the prior art.

Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully Submitted,

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